

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 29 1995

In the Matter of

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) CC Docket No. 95-72

End User Common Line
Charges

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COMMENTS

BellSouth Telecommunications, Inc. ("BellSouth") hereby submits the following comments on the Notice of Proposed Rulemaking ("Notice") released on May 30, 1995 in the above referenced matter.¹

I. INTRODUCTION

The genesis of this proceeding lies in a controversy regarding the proper application of subscriber line charges ("SLCs") to ISDN (Integrated Services Digital Network) services. As the Commission notes, ISDN enables the delivery of multiple voice-grade channels over a single facility.

The introduction of ISDN brings to the forefront the need to reassess SLCs. The Commission is correct that such reassessment must be considered in the broader context of the competitive developments not only in interstate access but also in intrastate local services. The rapidly changing face of the telecommunications market creates the sense of urgency to commence the reassessment of SLCs. At the same

¹ End User Common Line Charges, CC Docket No. 95-72, Notice of Proposed Rulemaking, Released May 30, 1995.

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time, such a reassessment will be a complex undertaking--not easily or quickly completed. Notwithstanding the importance of such a proceeding, the question of determining a fair and equitable application of SLCs to ISDN services must be resolved immediately.

ISDN is at a critical junction in its development. The jeopardy that the current rules impose on ISDN is that they can stall its introduction into the market because an unfair economic burden is placed on this nascent service. For this reason, BellSouth urges the Commission to focus its attention in this proceeding on ISDN and achieve a solution for that service and in a separate proceeding consider a total review of SLCs as part of its universal service review.

II. DISCUSSION

The Notice presents a brief history of SLCs and summarizes the recent Commission orders that interpreted existing rules to apply SLCs on a derived channel basis for ISDN services. The reasoning that led the Commission to its interpretation is illustrative of the inadequacy of the existing rules in the current marketplace context.

When first promulgated, SLCs represented a dramatic break with traditional regulatory approaches to cost recovery. Nevertheless, in retrospect, the environmental issues were far less complex than they are today. Hence, the implicit predicate of SLCs, i.e., averaging, was not a

significant concern as compared to apportioning the impact of SLCs between different classes of end users (i.e., residence, single line business and multi-line business).

Further, at the time SLCs were introduced, an averaging approach regarding the application of SLC charges was not unreasonable. Essentially, the end user was indifferent toward the type of facilities used to provide his connection to the public switched network. In these circumstances, to the extent that local exchange carriers (LECs) used carrier systems or other derived channel means to deliver an end user's connection, the primary consideration for the end user was the connection, not the means by which it was made. The choice of facilities was, for the most part, a LEC choice and was made on the basis of maximizing efficiency.

ISDN represents a departure from the factual predicate upon which SLCs were adopted. When an end user selects ISDN service, he is selecting more than multiple connections to the public switched network. He is choosing a digital technology, with improved transmission capabilities and enhanced versatility. Moreover, the multiple connections that the end users can obtain through ISDN are not derived through adding equipment to the loop facilities, but rather through different line cards that are part of the switch. The cost of that multichannel capability, then, is not allocated to the interstate jurisdiction as a nontraffic sensitive cost, nor should it be recovered through end user

or carrier common line charges.

It must not be overlooked that the multichannel capability is paid for by the ISDN subscriber through the local charges for the ISDN service. When this fact is considered it can readily be seen that applying SLCs on a derived channel basis to ISDN service leads to economic inequity.

It is this inequity that has a chilling effect on the deployment of ISDN. Assessing multiple SLCs on ISDN services increases the cost of the service to users beyond any value they can derive from its enhanced capabilities. Simply put, the price of the service will suppress the demand for the service.

BellSouth believes that the Commission should craft a solution for ISDN service based on the unique circumstances of ISDN. For ISDN, SLCs should be assessed on a per service basis. When a subscriber orders service, he obtains either a primary rate interface (PRI) or a basic rate interface (BRI). Under BellSouth's proposal a SLC would be assessed for each PRI or BRI ordered by the customer.

BellSouth's recommended approach is consistent with the analytical framework enumerated in the Notice. The first guideline mentioned by the Commission was that it wanted to avoid erecting regulatory barriers to the development of new technologies.² If the Commission fails to change the

² Id. ¶ 17.

application of SLCs with respect to ISDN, it will be that regulatory failure that will be responsible for truncating the development and deployment of ISDN. SLCs will become an insurmountable regulatory barrier that will prevent ISDN from becoming an economically viable service.

The second criteria, and a counterbalance to the first, identified in the Notice is that a rule should not be amended to favor new technologies simply because they are new.³ Such is not the case with ISDN. As discussed above, ISDN represents a significantly different case from other derived channel exchange services. There are unique circumstances that apply to ISDN but not other exchange services. These circumstances form a sound public policy basis for amending the rules as they are applied to ISDN.

The Notice also states that new rules should not reduce the level of nontraffic sensitive (NTS) loop costs that are recovered through flat charges.⁴ Changing the SLC application for ISDN would not violate this guideline. The Commission must be mindful of the fact that the derived channel capability of ISDN is a switching cost, not a nontraffic sensitive cost. By assessing multiple SLCs on ISDN, the Commission, in effect, increased the level of NTS costs recovered through flat charges, but in a most unequal

³ Id.

⁴ Id. ¶ 18.

way.⁵ The burden of the Commission's determination fell exclusively on the ISDN user. Modifying the application of SLCs for ISDN services would restore NTS cost recovery through flat charges to the same level that existed before the Commission issued its rule interpretation. In other words, it would be restoration of the *status quo anti*.

The Commission expresses the concern that a reduction in SLC revenues will increase carrier common line charges.⁶ If the Commission modified the application of SLCs for ISDN services, such a modification would not have the effect of raising carrier common line charges. As the Commission is aware, virtually no LEC has been assessing multiple SLCs on ISDN.⁷ Thus, modification of the rule would not cause a reduction in SLC revenues or increase the residual recovered through common line charges. Moreover, for price cap LECs, carrier common line rates are no longer calculated on a residual basis. Hence, as to these LECs the Commission's

⁵ The increase in NTS recovery through flat charges may well be more mathematical than real. With multiple SLCs, ISDN has very limited market potential. If ISDN does not have widespread acceptance in the marketplace, then ISDN has virtually no effect on the level of NTS costs recovered through flat charges.

⁶ Notice ¶ 18.

⁷ See Petitions for Waiver of Sections 69.104 of the Commission's Rules in connection with ISDN services, filed by Bell Atlantic, February 10, 1995; Pacific Bell, February 21, 1995; GTE Telephone Companies, March 7, 1995; Cincinnati Bell Telephone, March 16, 1995; US West, April 4, 1995 and; BellSouth, April 5, 1995.

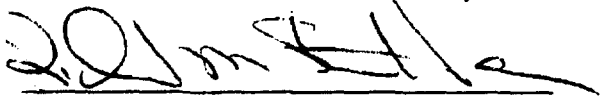
concern is inapposite.⁸

ISDN has been recognized as a technology that could complement the development of the information superhighway.⁹ At this critical time, the Commission has an opportunity to establish a visionary policy that will cultivate a national information infrastructure. The alternative is to revert to a traditional, formula-like solution. The consequences of the latter approach for ISDN may be severe and irreversible. Accordingly, BellSouth urges the Commission to adopt its proposal. The risk is virtually nonexistent but the potential reward may be boundless.

Respectfully submitted,

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⁸ The Commission also views the potential increase in carrier common line charges because of a reduction in SLCs as a competitive issue. While the recovery of carrier common line charges on a usage sensitive basis certainly has competitive implications, the issue is one better considered as part of a reassessment of universal service obligations.

⁹ See Letter from Larry Irving, Assistant Secretary of Commerce for Communications and Information, to Reed Hundt, Chairman, Federal Communications Commission, dated March 17, 1995.

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of June 1995 served all parties to this action with a copy of the foregoing COMMENTS by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

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